

James D. “Mitch” Vilos (#3333)  
Attorney at Law, P.C.  
Post Office Box 1148  
Centerville, UT 84014  
Email: [mitchvilos@gmail.com](mailto:mitchvilos@gmail.com)  
*Attorneys for Defendant*

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**IN THE UNITED STATE DISTRICT COURT  
DISTRICT OF UTAH**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

HOWARD CODY HALLETT,

Defendant.

**DEFENDANT’S MEMORANDUM IN  
OPPOSITION TO PLAINTIFF’S  
MOTION TO DETAIN DEFENDANT  
PENDING TRIAL**

Case No. 2:22mj698 JCB

Judge Jared C. Bennett

James D Mitch“ Vilos, attorney for the Defendant, hereby submits Defendant’s Memorandum in Opposition to Plaintiff’s Motion to Detain the Defendant Pending Trial as follows:

**INTRODUCTION**

Briefly, the government asserts that the Defendant is a danger to the community and a flight risk. The attached exhibits show that he is neither. The letters of character reference show that his character is not such that he would attempt to obstruct justices or threaten witnesses. He

has significant ties to the community. There is no evidence that he knew that these firearms were going to be misused. Many potential weapons sold into the stream of commerce that could be and have been used to injure others - motor vehicles, tire irons, axes, machetes and chain saws. No one claims without express evidence of specific intent that these merchants are “dangers to the community” because someone in the stream of commerce misused their products.

**I. DANGER TO THE COMMUNITY AND FLIGHT RISK**

Exhibit No. 1 shows the result of Mr. Hallett’s criminal history search on Xchange in both the Utah District and Justice Courts. . This history goes back to 2000; 22 years ago. Mr. Hallett has not been convicted of a any crime, not even a serious misdemeanor or infraction (other than a few traffic infractions) let alone a crime involving violence.

Exhibit No. 2 is a compilation of notarized letters of character reference that cover both issues - danger to the community and flight risk. As indicated by every one of the Affiants, he is neither.

Exhibit No. 3 contains lease documents showing that Mr. Hallett has recently paid several thousand dollars for a new residence on October 4, 2022. His brother, Paul Hallett, explains the circumstances about this in his letter of character reference. The purpose of the new rental was to provide a bedroom for his son within the same school district as his previous residence that he’s had for the past five years. It is also to provide a place for his daughter to visit as well. In summary, Mr. Hallett has considerable ties to the Salt Lake community. The letter from his disabled elderly mother explains how she relies upon him for assistance.

Exhibit No. 4 is a compilation of the sections of the United States code that define dealing in firearms without a license. This is a malum prohibitum law that frankly, even if a non-lawyer civilian knew where to look, the chances are he would not understand what it means (notice that the prohibition requires an understanding of both 18 U.S.C. § 922(a)(1)(A) and the definitions in 18 U.S.C. § 921. These two statutes provide no bright line about how many firearms a person can sell nor how much money can be made before a person is in violation of “dealing without a license.” Neither these two statutes nor the Second Amendment place any limit on the number of firearms a person can buy or possess. The government has provided no that he knew or should have known that the firearms would be misused. The reference to his selling to “Ernesto,” if this was somehow intended to imply that Hispanics are more inclined to commit crimes with firearms, is patently racist and offensive.

## **II. OTHER FACTORS CONCERNING DETENTION**

Other important factors include the fact that there is no victim in this case as indicated indicated in the Government’s Detention Motion. Although the defendant has a passport, he’s willing to surrender the passport to the Clerk of this Court pending the resolution of this case. The case file indicates there are pending subpoenas instructing federal officers to seize any firearms in the Defendant’s possession. Therefore, there are no firearms for the Defendant to sell. And finally, and perhaps most importantly, although ignorance of the law is no excuse, the defendant now knows about this obscure malum prohibitum statute hidden in Title 18 of the

United States Code, and based upon the character references herein, would never have attempted to sell firearms in such quantities had a he known that this statute exists.

**CONCLUSION**

With the information provided herein, the Government cannot sustain its burden. For these reasons the Defendant respectfully requests that the Government's Motion to Detain Mr. Hallett pending trial be denied.

**DATED** this 10th day of October 2022.

/s/ James D. "Mitch" Vilos

**JAMES D. MITCH VILOS (#3333)**

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the foregoing **DEFENDANT’S**  
**MEMORANDUM IN OPPOSITION TO PLAINTIFF’S MOTION TO DETAIN**  
**DEFENDANT PENDING TRIAL** by email and through the Court’s electronic filing system to  
the following:

Trina Higgins  
Victoria McFarland  
111 S. Main Street, Ste. 1800  
Salt Lake City, UT 84111  
*Attorney for United State of America*  
*Victoria.McFarland@usdoj.gov*

**DATED** this 10th day of October 2022.

/s/ James D. “Mitch” Vilos

**JAMES D. MITCH VILOS (#3333)**

*Attorneys for Plaintiffs*